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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/518,662	12/17/2004	Robert Alan Cottis	7234-108	8530
30565	7590	04/02/2009	EXAMINER	
WOODARD, EMHARDT, MORIARTY, MCNETT & HENRY LLP 111 MONUMENT CIRCLE, SUITE 3700 INDIANAPOLIS, IN 46204-5137				DINH, BACH T
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/518,662	COTTIS, ROBERT ALAN	
	<b>Examiner</b>	<b>Art Unit</b>	
	BACH T. DINH	1795	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 17 December 2004.

2a) This action is **FINAL**.                            2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-10 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-10 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on 17 December 2004 is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 02/28/2005.

4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.

5) Notice of Informal Patent Application

6) Other: \_\_\_\_\_.

**DETAILED ACTION**

***Summary***

1. This is the initial office action in response to the 10/518,662 application filed on 12/17/2004.
2. Claims 1-10 are currently pending and have been fully considered.

***Priority***

3. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
5. Claim 6 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Current claim recites "the monitored potential is filtered to separate out a signal representing the response of the electrode to the or each applied frequency and a signal which represents electrochemical current noise", it is unclear how one would filter the monitored potential to obtain an electrochemical current noise. Current specification only states "the monitored potential is filtered to separate out a signal representing the response of the electrode to the or each applied frequency and a signal which represents electrochemical potential noise" (page 4, 2nd paragraph of the originally filed specification). For the prosecution of current

claim, the recited limitation is treated as the monitored potential is filtered to separate out a signal which represents electrochemical potential noise.

6. With respect to claim 10, although the office recognizes product by process claims (MPEP 2113), the examiner is aware of no recognition for product for a process claim. Moreover, because product claims are supposed to be evaluated in terms of what the apparatus is and not what it does (MPEP 2114), these claims would thereby not be limited by any process preceding it. Furthermore, MPEP 608.01(n) states that dependent claims can only further narrow a parent claim. Examiner advises the applicant to write claim 10 as independent in order to obviate this rejection.

### ***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

9. Claims 1 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bosch et al. (US 6,320,395) in view of Dawson et al. (US 5,425,867).

Addressing claims 1 and 10, Bosch discloses a method and an apparatus for monitoring corrosion of a working electrode (1:13-17), wherein an alternating perturbation signal of at least one frequency is applied to the working electrode (2:30-39, applying two sinusoidal signals having different frequencies to the system, which contains the working electrode 145, figure 5), a signal representing the response of the working electrode to the applied perturbation signal is monitored (2:42-45, analyzing the response current measured at different frequencies). The current and potential output in response to the applied perturbation signal are measured (5:45-57, figure 5,  $i_{out}$  and  $E_{out}$ ).

Bosch is silent regarding the monitored signal is filtered to separate out a signal representing the response of the electrode to the or each applied frequency and an electrochemical noise output signal representative of corrosion at the working electrode.

Dawson discloses a method and an apparatus for monitoring corrosion at the working electrode 2 by monitoring the potential and current noise signals in the frequency range of 0.5 mHz to 1 Hz (4:58-60). Furthermore, filters are provided to separate out the current noise signal and potential noise signal at a desired frequency (2:66-3:9).

Bosch and Dawson are analogous arts for they disclose methods and apparatuses for determining corrosion of a system. At the time of the invention, one with ordinary skill in the art would have found it obvious to modify the method of Bosch with the method of analyzing the corrosion of the working electrode by monitoring the electrochemical potential noise and electrochemical current noise by filtering the output signals to obtain

the current noise and potential noise within a predetermined frequency range as disclosed by Dawson because doing so would allow one to determine the degree of localized corrosion attack, pitting and stress corrosion cracking (Dawson, 5:6-10) as well as the rate of corrosion disclosed by Bosch (Bosch, 2:33-39).

10. Claims 2-4 and 8-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bosch et al. (US 6,320,395) in view of Dawson et al. (US 5,425,867) as applied to claims 1 and 10 above, and further in view of Roarty et al. (US 5,323,429).

Addressing claims 2-3, Bosch discloses the applied perturbation signal is a potential perturbation at different frequencies (5:4-7, figure 5) and the current and potential in response to the applied perturbation signals is measured (5:53-57, figure 5).

Bosch is silent regarding a measure of impedance is derived from the applied perturbation signal and the response signal.

Roarty discloses monitoring stress-corrosion damage; wherein, electrochemical impedance is measured by analyzing the response of the corrosion interface to an applied sinusoidal potential waveform over a range of frequencies (7:8-11).

At the time of the invention, one with ordinary skill in the art would have found it obvious to modify the method of Bosch with the method of measuring the impedance of Roarty because doing so would allow one to determine the resistance/capacitance characteristics of the corroding surface (Roarty, 7:11-13).

In conjunction with the rejection of claim 1, the electrochemical current noise in response to the applied perturbation signals is measured according to the method of Dawson.

Furthermore, Dawson discloses the electrochemical potential noise can be measured from the measured impedance and the electrochemical current noise according to the equation  $|Z_w| = V_w/I_w$  (Dawson, 4:28-38).

With respect to the subject matter of claim 4, in conjunction with the rejection of claim 1, the electrochemical potential noise in response to the applied perturbation signals is measured according to the method of Dawson. Therefore, the electrochemical current noise can also be measured from the measured impedance and the electrochemical potential noise by the above equation.

Addressing claim 8, Bosch discloses the alternating perturbation signal comprises one or more sinewaves (figure 1a).

Addressing claim 9, Bosch discloses the applied perturbating signal contains sinewaves with different frequencies or period (4:20-23, figure 1B applied perturbation signal 110) that has an integral multiple relationship to a frequency at which the electrochemical noise is sampled (figure 1B the measured response signal 120 also has similar sinewaves profile as the applied signal). Furthermore, Bosch discloses the response signal is measured with respect to the perturbation signals that are applied at multiples of same frequencies (1:62-67). Therefore, Bosch discloses perturbating signal contains sinewaves that have a period that has an integral multiple relationship to a frequency at which the electrochemical signal is sampled. Hence, in combination with the disclosure of Dawson where the electrochemical noise signals are sampled, the perturbating signal of Bosch

would contain sinewaves that have a period that has an integral multiple relationship to a frequency at which the electrochemical noise signal is sampled.

11. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bosch et al. (US 6,320,395) in view of Dawson et al. (US 5,425,867) and Roarty et al. (US 5,323,429) as applied to claims 2-4 and 8-9 above, and further in view of Gonzalez-Martin et al. (US 6,805,788) and Eden et al. (US 5,139,627).

Addressing claim 5, Bosch discloses an alternating potential control signal is generated (potential perturbation signal 110 generated by the computer 155, 5:45-49), the potential between the working electrode and a reference electrode exposed to the same environment as the working electrode is monitored (figure 5, the output potential is the potential between the working and reference electrodes). Bosch discloses the corrosion potential of the electrochemical cell is measured and the potentiostat is set to this value and the perturbation signal is fed to the potentiostat (5:45-59); therefore, Bosch discloses the need to keep the potential measured between the electrodes and the potential applied constant.

Bosch is silent regarding an alternating perturbation signal is applied through an auxiliary electrode which is exposed to the same environment as the working electrode such that the monitored potential is the same as the potential of the control signal and the applied current is monitored.

Gonzalez-Martin discloses an electrochemical sensor for measuring corrosion of a substrate; wherein, the corrosion of the substrate is measured by applying a small AC

perturbation current and measure the voltage response (6:38-45). Furthermore, the electrochemical impedance is measured when the AC perturbation signal is applied between the substrate and the counter or auxiliary electrode (5:18-20); therefore, Gonzalez-Martin discloses a measure of the impedance of the working electrode is derived from the applied current signal and the response signal.

Eden discloses an alternative way of measuring the corrosion of an electrode; wherein, a current at constant potential is applied to an electrode array and the applied current is monitored to deduce the electrochemical corrosion effects (4:38-44).

At the time of the invention, one with ordinary skill in the art would have found it obvious to modify the method of Bosch with the method of applying an AC current perturbation between the working and counter electrode as disclosed by Gonzalez-Martin and monitoring the applied current that provides constant potential in the electrode array as disclosed by Eden because doing so would give one an alternative method to detect the early stages of corrosion in the corroding system (Gonzalez-Martin, 5:13-15).

With regard to the cited limitation “the monitored current is filtered to separate out a signal represent the response of the electrode to the or each applied frequency and a signal which represents the electrochemical current noise”, this limitation is addressed above by the method of Dawson.

With regard to the cited limitation “a signal representing electrochemical potential noise is derived from the filtered signal and the derived impedance measure”, this limitation is addressed above where one can measure the electrochemical chemical potential noise

based on the derived impedance and electrochemical current noise using the impedance equation of Dawson.

12. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bosch et al. (US 6,320,395) in view of Dawson et al. (US 5,425,867) and Roarty et al. (US 5,323,429) as applied to claims 2-4 and 8-9 above, and further in view of Gonzalez-Martin et al. (US 6,805,788).

Addressing claim 6, Bosch (figure 5), Dawson (figure 1) and Roarty (8:41-45) all disclose method of measuring corrosion using a system comprising three electrodes. Bosch, Dawson and Roarty are silent regarding the limitation of current claim.

Gonzalez-Martin discloses an electrochemical sensor for measuring corrosion of a substrate; wherein, the corrosion of the substrate is measured by applying a small AC voltage perturbation and Measure the perturbation in the current response. Alternatively, the corrosion of the substrate can also be measured by applying a small AC current perturbation and measure the voltage response (6:38-45). Furthermore, the AC signal perturbation is applied between the substrate and the counter or auxiliary electrode.

At the time of the invention, one with ordinary skill in the art would have found it obvious to modify the method of Bosch by the method of applying a small AC current perturbation between the working and counter electrode and measure the potential between the working and reference electrode (figure 5 of Bosch, the potential between the working and reference electrodes is measured by digital voltmeter, 5:45-47) as disclosed by Gonzalez-Martin because doing so would allow one to detect the early stages of corrosion of the corroding system (Gonzalez-Martin, 5:13-20).

In conjunction with the rejection of claims 1-4, the voltage response is filtered to separate out a signal representing the response of the electrode to each applied frequency and a signal which represents electrochemical potential noise as disclosed by the method of Dawson.

With regard to the cited limitation “a measure of the impedance of the working electrode is derived from the applied perturbation signal and the response signal”, this limitation is addressed by the method of Roarty as addressed above in the rejection of claim 2.

With regard to the cited limitation “a signal representing electrochemical current noise is derived from the filtered signal and the derived impedance measure”, Dawson discloses the electrochemical current noise can be measured from the measured impedance and the electrochemical potential noise according to the equation  $|Z_w| = V_w/I_w$  (Dawson, 4:28-38).

13. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bosch et al. (US 6,320,395) in view of Dawson et al. (US 5,425,867) and Roarty et al. (US 5,323,429) as applied to claims 2-4 and 8-9 above, and further in view of Syrett et al. (US 4,658,365).

Addressing claim 7, Bosch, Dawson and Roarty is silent regarding the alternating perturbation signal has a DC offset.

Syrett discloses a method for monitoring corrosion rate of metals; wherein, AC voltage perturbation with a frequency is superimposed on the DC protection voltage or the AC perturbation signal has a DC offset (2.25-32).

At the time of the invention, one with ordinary skill in the art would have found it obvious to modify the method of Bosch with the AC perturbation signal that has a DC

offset as disclosed by Syrett because doing so would allow one to calculate the free corrosion current density and the free corrosion potential (Syrett, 2:30-32).

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to BACH T. DINH whose telephone number is (571)270-5118. The examiner can normally be reached on Monday-Friday EST 7:00 A.M-3:30 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nam X. Nguyen can be reached on (571)272-1342. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Kaj K Olsen/  
Primary Examiner, Art Unit 1795

BD  
03/27/2009